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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

Case No. 4:23-mc-80122-DMR

(Originating Case: Silva v. Doe 1, et al., S.D.
Fla. 1:22-cv-24262-RKA)

**PLAINTIFF RICCARDO SILVA'S
NOTICE OF HEARING OF MOTION TO
COMPEL THIRD-PARTY TWITTER,
INC. TO RESPOND TO SUBPOENA**

Date: June 8, 2023

Time: 1:00 p.m.

Ctrm.: 4, 3rd Floor

Judge: Chief Magistrate Judge Donna M. Ryu

*IN RE: SUBPOENA TO X CORP., Successor in
Interest to TWITTER, INC.*

1 **TO ALL PARTIES, THIRD-PARTY X CORP., SUCCESSOR IN INTEREST TO
TWITTER, INC., AND COUNSEL OF RECORD:**

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3 **PLEASE TAKE NOTICE** that on June 8, 2023, at 1:00 p.m., or as soon thereafter as this
 4 matter may be heard, in the United States District Court, Northern District of California, located at
 5 1301 Clay Street, Oakland, CA 94612, before Chief Magistrate Judge Donna M. Ryu, Plaintiff
 6 Ricardo Silva (“Plaintiff”) will move, and hereby does move, for an order compelling Third-Party
 7 X Corp., successor in interest to Twitter, Inc. (“Twitter”), to comply with Plaintiff’s subpoena
 8 served on Twitter on April 3, 2023 (the “Subpoena”). In accordance with Magistrate Judge Ryu’s
 9 *Notice re Telephonic Appearance Procedures*, all civil motion hearings are conducted by Zoom
 10 unless otherwise indicated. This proceeding will be held by Zoom, via Zoom link:

11 <https://canduscourts.zoomgov.com/j/1612787819?pwd=SDRMY3hvT1FkOGx5ZUpPcTBSaFRpdz09>, Webinar ID: 161 278 7819, Password: 053378.

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13 The Motion to Compel is brought pursuant to Rules 26, 37 and 45 of the Federal Rules of
 14 Civil Procedure, and the applicable Local Rules of this Court, on the grounds that counsel for
 15 Plaintiff and Twitter met and conferred in good faith pursuant to Civil Local Rule 37, but were
 16 unable to resolve Twitter’s First Amendment objection. Specifically, Twitter maintains that it
 17 cannot comply with the Subpoena absent a Court Order directing compliance, asserting that a
 18 Court must first conduct a First Amendment analysis of the requested discovery, including
 19 whether Mr. Silva has satisfied the applicable standard regarding the qualified right to anonymous
 20 speech under the First Amendment to the United States Constitution.

21 The Motion to Compel is based on this Notice of Motion, which Notice is being issued
 22 following assignment of this Miscellaneous Action to Chief Magistrate Judge Ryu, as well as the
 23 following documents previously filed on April 20, 2023 and personally served on Twitter’s
 24 California Registered Agent for Service of Process on April 21, 2023, consisting of: (i) Plaintiff’s
 25 Notice of Motion and Motion to Compel Third-Party Twitter to Respond to Subpoena and
 26 Memorandum in Support (Dkt. No. 1); (ii) Declaration of Adam Stolz and all exhibits thereto
 27 (Dkt. No. 1-1); (iii) Declaration of Kerry L. Duffy (Dkt. No. 1-2); and (iv) all cited authorities, all
 28 files and records in the underlying litigation currently pending in the U.S. District Court for the

1 Southern District of Florida, *Silva v. John Doe I, et al.*, Case No. 1:22-cv-24262-RKA, any
2 additional matters as may be judicially noticed by the Court, and on the oral argument and any
3 other evidence that may come before the Court prior to or during the hearing on this Motion to
4 Compel.

5 DATED: May 1, 2023

BARTKO ZANKEL BUNZEL & MILLER
A Professional Law Corporation

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8 By: _____ /s/ *Kerry L. Duffy*

9 Kerry L. Duffy

10 Attorneys for Plaintiff RICCARDO SILVA

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